

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Oklahoma: Oklahoma (FEMA Docket No.: B-1129)	City of Del City (09-06-1014P).	May 6, 2010; May 13, 2010; <i>The Oklahoman</i> .	The Honorable Brian Linley, Mayor, City of Del City, P.O. Box 15177, Del City, OK 73155.	September 10, 2010 .....	400233
Texas: Montgomery (FEMA Docket No.: B-1124).	Unincorporated areas of Montgomery County (09-06-2479P).	April 14, 2010; April 21, 2010; <i>The Courier</i> .	The Honorable Alan B. Sadler, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	August 19, 2010 .....	480483
Tarrant (FEMA Docket No.: B-1124).	City of Keller (09-06-2005P).	April 14, 2010; April 21, 2010; <i>The Keller Citizen</i> .	The Honorable Pat McGrail, Mayor, City of Keller, 1100 Bear Creek Parkway, Keller, TX 76248.	August 19, 2010 .....	480602

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: December 10, 2010.

**Sandra K. Knight,**

*Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### 45 CFR Parts 301, 302, 303, and 307

#### Safeguarding Child Support Information

**AGENCY:** Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) created and expanded State and Federal Child Support Enforcement databases under title IV-D of the Social Security Act (the Act) and significantly enhanced access to information for title IV-D child support purposes. States are moving toward a more integrated service delivery to better serve families and further the mission of the Child Support Enforcement program, while protecting confidential data. This final rule specifies requirements for: State Parent Locator Service responses to authorized location requests; and State Child Support Enforcement program safeguards for confidential information and authorized disclosures of this information. This final rule revises certain aspects of the State Parent Locator Service; Safeguarding Child Support Information final rule published on September 26, 2008 with

an effective date delayed until December 30, 2010. This final rule will prohibit the disclosure of confidential and personally identifiable information to private collection agencies and expand disclosure to child welfare programs and the Supplemental Nutrition Assistance Program (SNAP).

**DATES:** This rule is effective on December 30, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Paige Hausburg, OCSE, Division of Policy, (202) 401-5635, e-mail [paige.hausburg@acf.hhs.gov](mailto:paige.hausburg@acf.hhs.gov). Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 5 p.m. Eastern time.

**SUPPLEMENTARY INFORMATION:**

**I. Statutory Authority**

This final rule is published under the authority granted to the Secretary of the United States Department of Health and Human Services (Secretary) by sections 1102, 453, 453A, 454, 454A, and 463 of the Act. Section 1102 of the Act, 42 U.S.C. 1302, authorizes the Secretary to publish regulations that may be necessary for the efficient administration of the Child Support Enforcement program authorized under title IV-D of the Act (IV-D program).

The provisions of this final rule pertaining to the Federal Parent Locator Service (Federal PLS) implement section 453 of the Act, 42 U.S.C. 653. Section 453 requires the Secretary to establish and conduct a Federal PLS to obtain and transmit specified information only to authorized persons for purposes of establishing parentage, or establishing, modifying, or enforcing child support obligations. Section 453 of the Act, 42 U.S.C. 653, also authorizes the Secretary to disclose information in the Federal PLS to the State Child Support Enforcement program (authorized under title IV-D of the Act), Temporary Assistance for Needy Families program (TANF or IV-A program authorized under title IV-A of the Act), Child Welfare Services program (IV-B program authorized

under title IV-B of the Act), and Foster Care and Adoption Assistance program (IV-E program authorized under title IV-E of the Act) to assist States in carrying out their responsibilities under those programs. Section 463 of the Act, 42 U.S.C. 663, also permits States to use information in the Federal PLS for the purpose of enforcing any Federal or State law with respect to a parental kidnapping or making or enforcing a child custody or visitation determination. In addition, the provisions of this final rule pertaining to the State Parent Locator Service (State PLS) implement section 454(8), 42 U.S.C. 654(8), which requires each State IV-D program to establish a State PLS to locate parents by exchanging data with the Federal PLS and utilizing other information sources and records in the State.

Several sections of the Act require safeguarding measures for information contained in State and Federal databases, including the National Directory of New Hires (NDNH) and the Federal Case Registry (FCR). Section 454(8) requires States receiving funding under title IV-D to have a State plan providing that the State IV-D program will: (1) Establish a service to locate parents utilizing all sources of information and available records and the Federal PLS; and (2) disclose the information described in sections 453 and 463 only to the "authorized persons" specified in sections 453 and 463, subject to the privacy safeguards in section 454(26) of the Act. In addition, sections 453(m) and 463(c) restrict disclosure of confidential information maintained by the Federal PLS only to an "authorized person" for an authorized purpose and require the Secretary to establish and implement safeguards designed to restrict access to confidential information in the Federal PLS to authorized persons for authorized purposes. Section 453(l), 42 U.S.C. 653(l), also specifies that information in the Federal PLS shall not be used or disclosed except as expressly provided in section 453. Section

454(26), 42 U.S.C. 654(26), requires the State IV–D agency to have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties and prohibit disclosure of information in cases involving domestic violence or child abuse. Section 453A of the Act, 42 U.S.C. 653a, requires States to establish and operate an automated directory containing information on newly hired employees and to use the information to assist in the administration of the State Child Support program and certain other specified programs listed in section 453A(h) of the Act. Additionally, sections 454(16) and 454A, 42 U.S.C. 654(16) and 654a, require States to maintain computerized child support enforcement systems and to use the system to extract information necessary to enable the State IV–D agency (and other programs designated by the Secretary) to carry out their responsibilities under title IV–D of the Act and under such programs, and to have in effect safeguards on the access to and use of data in the State’s automated system.

## II. Background

This final rule prohibits disclosure of confidential and personally identifiable information to private collection agencies (PCAs) and expands disclosure of information to child welfare programs authorized under titles IV–B and IV–E and the Supplemental Nutrition Assistance Program (SNAP). On September 26, 2008, a final rule, following a notice and comment period, entitled “State Parent Locator Service; Safeguarding Child Support Information,” was published in the *Federal Register* [73 FR 56422] to address requirements for State Parent Locator Service responses to authorized location requests, State IV–D program safeguarding of confidential information, authorized disclosures of this information, and restrictions on the use of confidential data and information for child support purposes with exceptions for certain disclosures permitted by statute. The effective date given for the final rule was March 23, 2009. In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff entitled “Regulatory Review” [74 FR 4435], on March 3, 2009, the Department published a notice in the *Federal Register* [74 FR 9171] seeking public comment on a contemplated delay of 60 days in the effective date of the rule entitled “State Parent Locator Service; Safeguarding Child Support Information.” In response to those

comments, the Department issued a subsequent notice published in the *Federal Register* [74 FR 11879] on March 20, 2009, which delayed the effective date of the September 26, 2008 rule by 60 days until May 22, 2009, in order to permit Departmental officials the opportunity for further review of the issues of law and policy raised by this rule. However, subsequent to publication of the March 20, 2009 notice, the Department determined that additional time would be needed for officials to complete their review of the rule and to fully assess the substantive comments received in response to the March 3, 2009 notice. As a result, on April 15, 2009, a notice was published in the *Federal Register* [74 FR 17445] indicating that the Department was contemplating a further delay in the effective date of the “State Parent Locator Service; Safeguarding Child Support Information” final rule to December 30, 2010, and requesting comments on the delay of the effective date. In response to comments from the April 15, 2009 notice, the Department issued a subsequent notice, published in the *Federal Register* [74 FR 23798] on May 21, 2009 delaying the effective date of the September 26, 2008 rule to December 30, 2010.

Although the March 3, 2009 and the April 15, 2009 notices invited comments on whether a delay in the rule’s effective date was needed “to allow Departmental officials the opportunity for further review and consideration,” both notices also generated focused substantive comments recommending changes to several particular provisions of the final rule that warranted further consideration. In addition to supporting a delay in the effective date of the rule, the comments raised specific policy concerns regarding two areas of the September 26, 2008 final rule: (1) The rules for disclosure of confidential and personally identifiable information about individuals maintained by State IV–D programs to a private, for-profit child support collection agency as an “agent of a child;” and (2) the child welfare data exchange provisions of the rules in light of legislation enacted in October 2008 after publication of the final rule.

With respect to disclosure of information to private collection agencies, concerns have been raised by commenters, Departmental officials, media coverage, litigation and program stakeholders that the government’s disclosure of confidential information to private child support collection agencies may not serve the children’s best interests. Specific concerns have

been raised about the risks involved in disclosing confidential data to private collection agencies not acting as a State’s agent under a contractual relationship nor required to comply with ethics and confidentiality rules such as those governing State agencies and private attorneys, and whose business practices are largely unregulated and not subject to program oversight.

Additionally, commenters on the March 3 and April 15, 2009 notices stated that a delay in the effective date would give the Administration an opportunity to conduct a review of the child welfare data exchange provisions to ensure that the provisions of the rule conform to *The Fostering Connections to Success and Increasing Adoptions Act* (Pub. L. 110–351), (the Fostering Connections Act) signed into law on October 7, 2008, eleven days after the Safeguarding Final Rule was published.

On June 7, 2010, a Notice of Proposed Rulemaking (NPRM) was published in the *Federal Register* [75 FR 32145] which proposed limited changes to the final regulation published on September 26, 2008 to address concerns identified by Department officials as well as those raised by commenters. Only selected portions of the “State Parent Locator; Safeguarding Child Support Information” final rule were addressed in the NPRM. The final rule published on September 26, 2008, in [73 FR 56442] will go into effect on December 30, 2010.

## III. Summary Description of Regulatory Provisions

The following is a summary of the regulatory provisions included in this final rule. The NPRM limited those sections of the final rule published on September 26, 2008 that were open for public comment. Affected sections include §§ 301.1, 302.35, 303.21, 303.69, 303.70, and 307.13. Additionally, we made a conforming change to § 303.20, which did not appear in the NPRM.

The Section-by-Section Discussion of the Regulations (Section IV) provides a detailed listing of the comments and responses. We considered each comment and where appropriate, amended the final rule. Specifically, changes include:

In § 301.1 we added a definition of “attorney of a child.” Commenters recommended a definition that requires the assurance of a genuine attorney-client relationship which creates an ethical obligation to represent the best interests of the child and/or the child’s resident parent. The newly-added definition specifies that there is an attorney-client relationship with an

ethical and fiduciary duty upon the attorney to represent the client's best interests under applicable rules of professional responsibility.

We made a technical change to the language in § 302.35(a)(2)(i) to include "non-parent relatives" to the list of those individuals about whom the State PLS may disclose information under section 453(a)(2) and 453(j)(3) of the Act for locate purposes. This was based on a comment that the rule was inconsistent; we agree and made the change accordingly. Additionally, this change is consistent with the change made to § 302.35(d)(2) in accordance with the Fostering Connections Act. We changed the language at § 302.35(c) in response to a comment that, as written, the NPRM would mandate that Tribal IV-D programs would have to make attestation and provide evidence that they are an authorized program to which the State PLS may disclose locate information. It was not our intent to exclude authorization for Tribal IV-D programs which are a part of the Child Support Enforcement program and have an intergovernmental agreement with a State to access Federal PLS information as set forth in OCSE PIQT-10-01. Therefore, we added new language to § 302.35(c)(1) providing that a Tribal IV-D agency that provides child support services under an approved Tribal IV-D plan and has an intergovernmental agreement in place with a State, entered into pursuant to section 454(7) of the Act for the provision of Federal PLS services, is an authorized program and may request locate information from the State PLS.

Additionally, the commenters supported preventing disclosure of confidential information to private collection agencies. However, the commenters thought that attestation remained important for a parent, legal guardian, attorney, or agent of a child not receiving assistance under title IV-A of the Act. We agree and reinstated the attestation for those individuals listed above in § 302.35(c)(3)(iii).

A conforming change was made to § 303.20 that was not proposed in the NPRM. Previously, § 303.20(b)(7) referenced operation of the State PLS required under § 302.35. Because of the changes made to the regulatory language at § 302.35, it was necessary to make a conforming change for consistency by adding §§ 303.3 and 303.70 to the regulatory text at § 303.20(b)(7).

The final change to the regulatory language is in §§ 303.70(d)(1), (3), and (4). This technical amendment was made to correspond with the change intended to permit disclosure of location information regarding non-

parent relatives. The former paragraph referred to information provided to parents and putative fathers. The technical correction is necessary to eliminate any conflicts or confusion in providing non-parent relative information to IV-B and IV-E agencies. The phrase "non-parent relative" was added to § 303.70(d)(1). The language at § 303.70(d)(2), which requires that a parent's or putative father's Social Security Number (SSN) be provided to the State PLS or Federal PLS for purposes of locating parents, putative fathers, or children for purposes related to title IV-D, IV-A, IV-B and IV-E was not changed. This also requires that the IV-D agency must make reasonable efforts to ascertain the individual's SSN before making the submittal to the Federal PLS. It was not appropriate to add "non-parent relative" to this section because the IV-D agency is not required to ascertain the SSN of a non-parent relative prior to making a submittal to the Federal PLS. A new § 303.70(d)(3) was added to require that the submittal request contain the non-parent relative's SSN, if known. Former § 303.70(d)(3) is thus renumbered to § 303.70(d)(4).

Some commenters suggested changes to the Appendices based on changes in the proposed regulatory language. We amended the Appendices in three areas: one change was made to Appendix A and two changes were made to Appendix C. A suggestion was made that we include language in the "Limitations" column in Appendix A as it relates to the State agency administering IV-B and IV-E programs in accordance with sections 453(c)(4), 453(j)(3) and 454(8) of the Act. We agree and added language that indicates that any use of the information from the Federal PLS and the State PLS outside the purposes of section 453(a)(2) and 453(j)(3) of the Act requires independent verification. The first change in Appendix C was to modify the term "food stamps" to "SNAP" for consistency with the regulatory language and the rest of the Appendix. This change was in the "Authorized person/program" under the portion of Appendix C that listed the authority for sections 453A(h)(2) and 1137 of the Act. The second change to the Appendix was to add a footnote. Commenters correctly noted that Appendix C did not reference the domestic violence language referenced in both Appendices A and B. This prohibition against the disclosure of information if there is a reasonable evidence of domestic violence or child abuse and the disclosure of such information would be harmful to the custodial parent (also referred to as

resident parent) or child is required by sections 453(b)(2) and (3), 454(8) and (26) of the Act.

#### IV. Section-by-Section Discussion of Comments

This section provides a detailed discussion of comments received on the proposed rule, and describes changes made to the proposed rule. We referred generally to actions of the "Department" pursuant to the rule. The rule itself refers to actions of the "Secretary," however, the day-to-day activities of the Secretary's functions have been delegated and are exercised by other Department officials, primarily in the Administration for Children and Families. "Office" refers to the Federal Office of Child Support Enforcement (OCSE). We received comments from 26 commenters including 12 State agencies, nine advocacy groups, two organizations, and three private citizens. The majority of comments related to State Parent Locator Service, § 302.35.

##### General Comments

Several comments not attributable to specific sections of the regulation are discussed below.

1. *Comment:* All commenters supported the prohibition of disclosing confidential and personally identifiable information to private child support collection agencies (PCAs).

*Response:* We agree that the prohibition of disclosing confidential and personally identifiable information to PCAs is an appropriate change to the regulation. The final rule reflects that position.

2. *Comment:* All commenters supported the expansion of released information to title IV agencies, including IV-B and IV-E.

*Response:* This final rule mandates the expansion provided in the proposed rules consistent with section 453(j)(3) of the Social Security Act, permitting disclosure of information to IV-B and IV-E agencies for a broader range of authorized purposes that was not fully addressed in the September 26, 2008 regulation. Program responsibilities include locating relatives of children removed from parental custody in order to identify potential placements for the child and assist the State agency in permanency planning. Communication involving data matches and shared data between IV-D, IV-B, and IV-E programs serves the best interests of children and their families.

3. *Comment:* One commenter stated that for child welfare purposes, noncustodial parents should be notified and considered as potential placements. This would occur when identifying

relatives, providing notice to relatives, and placing siblings together. If the noncustodial parent is not an appropriate placement, the noncustodial parent may still be able to provide critical information to aid in making prompt and appropriate arrangements for children.

*Response:* We agree that it may be appropriate for children to be placed with their biological (both custodial and noncustodial) parents, consistent with child welfare program policies and the best interests of the children. This regulation provides for information concerning relatives, including the noncustodial parent under § 305.35(d)(1), to be released to the IV-B and IV-E agencies.

4. *Comment:* One commenter was supportive of restricting access to PCAs, but questioned the policy in PIQ 02-02 that, as written, would allow custodial parents to change their addresses to a PCA address.

*Response:* As discussed in the preamble to the NPRM, PIQ-02-02, *Requests by Custodial Parents for a Change of Address for the Disbursement of the Custodial Parent's Share of Child Support Collections* allowed a custodial parent to change his or her address to that of a PCA. The redirection of payments by a PCA and the policy to allow a custodial parent to change his or her address to that of a PCA, will be considered under a separate rulemaking authority.

On August 14, 2009, OCSE issued DCL-09-22, *Private Collection Agencies and Redirection of Payments*. This DCL indicated that OCSE had been alerted to the fact that some PCAs have instructed employers to redirect child support payments away from a State Disbursement Unit (SDU) to a PCA. In accordance with sections 454B, 466(a)(1)(A), 466(a)(8), and 466(b)(5) of the Act, payments in all IV-D cases and in non-IV-D cases in which the initial support order was issued on or after January 1, 1994 and in which the obligor's income is subject to wage withholding must be paid through the SDU.

5. *Comment:* One commenter expressed concern that the answer to question one in PIQ 03-05 conflicts with the NPRM, and should be changed.

*Response:* We agree. PIQ-03-05, *Guidance on Private Collection Agencies—Agent of a Child and Third Party Address for Correspondence* addressed inquiries requesting clarification on issues related to PCAs. The PIQ indicated that because “agent of a child” was not defined, a “for profit, private collection agency or private attorney could act as an ‘agent of a

child’ provided it has a valid contract that meets the State’s statutory and regulatory requirements for acting as an agent, if any,” and was thus authorized, under section 453(b)(1) and (c), to access confidential information from the Federal and State PLS.

This final rule adds a definition of “agent of a child.” Under the definition of “agent of a child,” a PCA no longer qualifies as an authorized person to receive confidential and personally identifiable information. In the final rule “agent of a child” means a caretaker relative having custody of or responsibility for the child. We will revise the PIQ after publication of the final rule to ensure consistency with the regulation.

6. *Comment:* The proposed effective date for changes is not sufficient time to implement the changes. The commenter expressed concerns about the difficulty for States to implement the final rule as published on September 26, 2008 and then implement this final rule.

*Response:* The delay in implementation of the final rule published on September 26, 2008 was necessitated by the concerns raised by Departmental officials and commenters. We believe that the differences in the proposed and final regulation are not so great that the implementation cannot be accomplished. OCSE is prepared to provide assistance to States as needed.

#### *Section 301.1, “Agent of a Child” Definition*

1. *Comment:* Many commenters agreed with the inclusion of “caretaker relative” in the definition of “agent of a child.” Other commenters suggested removing “relative” from the definition, and a few commenters proposed narrowing the definition to include only a court-appointed conservator or guardian *ad litem*. One commenter suggested adding “non-parent relative” to the definition.

*Response:* As noted in the preamble to the NPRM, “caretaker relative” is a longstanding term used in the TANF program and recognizes the practical reality that children are sometimes left in the care of a relative even though the relative may not have been appointed by a court. This language allows appropriate family members to advocate for the child’s best interests. The definition also prohibits PCAs, which may have financial motives separate, or even adverse to the child’s best interests, from acting as the child’s agent. We did not see the need to provide a specific definition for legal guardian.

2. *Comment:* One commenter agreed with our definition, but questioned

whether a Tribal IV-D agency’s ability to access the Federal PLS is supported by the definition of “agent of a child.”

*Response:* We agree and have revised the final rule to clarify that a Tribal IV-D agency’s authority to access information contained in the Federal PLS and State PLS is at newly added language at § 302.35(c)(1) which includes a Tribal IV-D agency as an authorized program.

#### *Section 301.1, “Attorney of a Child” Definition*

1. *Comment:* In the NPRM, we specifically sought comments on whether to add a definition of “attorney of a child” to the final rule. Several commenters thought a definition was necessary for “attorney of a child” for various reasons. Some commenters thought that it was important to clarify that attorney, as referenced in section 453(c)(3) of the Act refers to attorney of a child, not an attorney for either parent. Other commenters thought it was important that OCSE adopt a definition that requires assurance of a genuine attorney-client relationship that creates an ethical obligation to represent the best interests of the child. Another commenter stated that the language in the NPRM regarding the phrase “attorney of a child,” was too broad and needed to be defined.

*Response:* We are persuaded that a definition is necessary, and we have revised § 301.1 to provide the following definition: “Attorney of a child means a licensed lawyer who has entered into an attorney-client relationship with either the child or the child’s resident parent to provide legal representation to the child or resident parent related to the establishment of paternity, or the establishment, modification, or enforcement of child support. An attorney-client relationship imposes an ethical and fiduciary duty upon the attorney to represent the client’s best interests under applicable rules of professional responsibility.” (Please note that “resident parent” is also referred to as “custodial parent”.)

#### *Section 302.35—Parent Locator Service*

1. *Comment:* One commenter correctly noted that although §§ 302.35(a) and (b) were not open for comment, a clarification was necessary to add “non-parent relative” to authorize disclosure of locate information for title IV-B and title IV-E purposes in § 302.35(a)(2) consistent with the change made to § 302.35(d)(2).

*Response:* We agree with this comment and made this technical correction to the final rule at § 302.35(a)(2)(i) to read, “The State PLS

shall access and release information authorized to be disclosed under section 453(a)(2) and 453(j)(3) of the Act from the Federal PLS and, in accordance with State law, information from relevant in-State sources of information and records, as appropriate, for locating custodial parents, noncustodial parents, non-parent relatives, and children upon request of authorized individuals specified in paragraph (c) of this section, for authorized purposes specified in paragraph (d) of this section.” An additional change was made to § 302.35(a)(2)(i) that authorizes disclosure of information about relatives of children involved in IV–B and/or IV–E cases in accordance with the Fostering Connections Act.

2. *Comment:* One commenter said that the language at § 302.35(c) and Appendix A indicates that a request involving a child not receiving IV–A assistance is a non-IV–D request. Many children who are not receiving IV–A assistance are participants in a IV–D case.

*Response:* We agree that many children who are not receiving IV–A assistance may be participants in a IV–D case. However, this authorized purpose of the request example is specific to non-IV–D child support cases. The language is based on section 453(c)(3) of the Act.

3. *Comment:* One commenter, although supportive of the goal of denying access to Federal PLS information to a PCA, proposed that we do not delete § 302.35(c)(3)(iii) since it did not solely apply to PCAs, and also required evidence of a relationship between the requestor and the child. Another commenter suggested that it is not burdensome to request an attestation that the requestors are who they purport to be, especially when it comes to releasing confidential information. This same commenter suggested that we add “resident” to the regulatory language.

*Response:* We agree with the commenters and have added § 302.35(c)(3)(iii) requiring an attestation from a resident parent, legal guardian, attorney, or agent of a child. The addition of “resident” is appropriate as it is consistent with the statutory language. Section 453(c)(3) of the Act includes the definition of “authorized person” as a resident parent. The final rule at § 302.35(c)(3)(iii) is amended to read: “Attests that the requestor is the resident parent, legal guardian, or attorney, or agent of a child not receiving assistance under title IV–A.”

4. *Comment:* Many commenters were pleased with broadened disclosure of information allowed by § 302.35(d) for the disclosure of an individual’s

location, income, employment benefits, assets, debts, child support history, Family Violence Indicator (FVI), and other confidential information not only for parents, but non-parent relatives as well. One commenter explained that the broadened purposes will assist in carrying out IV–B and IV–E’s responsibility to administer their programs.

Other commenters wanted to limit disclosure to non-parent relatives and were primarily concerned with privacy for family violence victims. One commenter who wanted to limit disclosure expressed concern that the option for State IV–D agencies to share with other child welfare agencies a broader range of data elements than available in the Federal PLS raises safety, information reliability, and privacy concerns for domestic violence victims.

One commenter prefers limiting data access to “the extent necessary” to achieve an authorized purpose. The commenter elaborated that this language would protect the privacy rights of individuals as information regarding an individual’s assets and debts would rarely be necessary to establish parental rights, and the availability of health insurance would not be relevant towards locating a non-parent relative for placement of a child.

*Response:* Section 105 of the Fostering Connections Act amended section 453(j)(3) of the Social Security Act to expand the authority for information comparisons and disclosures of information from the Federal PLS for title IV program purposes to include child welfare and foster care programs funded under IV–B and IV–E of the Social Security Act. The law authorizes disclosure of information in the Federal PLS and State PLS to conduct data matches and share data with child welfare agencies “to the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under this part [D], part B or E, and programs funded under part A.” This final rule reflects the extent to which that data matching and sharing is appropriate in assisting States to carry out their responsibilities.

The purpose of broadening disclosure of information about non-parent relatives is to promote communication and efficiency between title IV agencies. Many of the commenters realized this and were pleased with the policy. Some commenters were justifiably concerned about disclosing information in family violence cases. The Act addresses their concerns. Under sections 453(b)(2) and (3), 454(8), and 454(26) of the Act, no

information may be disseminated regarding a family violence case. Section 453(b)(2) of the Act states that “\* \* \* No information shall be disclosed if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent \* \* \*.” Please refer to the “Limitations” column in Appendices A, B, and C. This statutory limitation is reflected in Appendices A, B, and C. Additionally, the final rule at sections 302.35(e) and 303.21(e) published in the **Federal Register** on September 26, 2008 [73 FR 56422] prohibits the release of information when the State has reasonable evidence of domestic violence or child abuse.

We take these requirements very seriously and are committed to ensuring that information is not shared that might jeopardize the safety of an individual thought to be a victim of family violence or child abuse. The intention of the FVI is to protect the victim whether the victim is the child, the custodial parent or the noncustodial parent. We are working closely with the Family and Youth Services Bureau, Family Violence Prevention and Services Program in the Administration for Children and Families on this critical issue. We also plan to reach out to domestic violence programs in developing guidance and training. In fact, we currently lead a Domestic Violence Collaboration Work Group which includes representatives from the National Resource Center on Domestic Violence and the Family Violence Prevention and Services Program.

5. *Comment:* Two commenters stated that these final regulations should clarify that States will provide assurances that their title IV–D and IV–E agencies will collaborate, through an interagency agreement, to ensure that child welfare agencies safely and appropriately handle cases with an FVI flag. These agreements should address the manner and information to be shared. In addition, required training should address confidentiality, the impact of family violence, post-traumatic stress disorder, and cultural competency. OCSE and the Children’s Bureau should consider issuing a joint guidance to assist States in crafting interagency agreements.

*Response:* We agree that when there is data sharing between two agencies, an interagency agreement strengthens the integrity of safeguarding the information between the agencies involved. Interagency training between IV–D, IV–B and IV–E agencies is appropriate to

ensure proper implementation of this final regulation. As we work to operationalize these regulations, we will develop joint guidance with our Federal counterparts in the child welfare and domestic violence programs on interagency agreements and conduct extensive outreach to State child support and child welfare programs.

6. *Comment:* Two commenters opposed establishing separate standards for disclosure for the Federal PLS and State PLS. One commenter requested that the regulations or other Federal guidance make clear, when referring to State IV-B and IV-E agencies for the purpose of receiving information under the proposed regulations, that political subdivisions of the State should be considered.

*Response:* The Federal PLS is not part of the State PLS. Requests for information from the Federal PLS must flow through the State PLS, and each State's standards are different based on sources of information each State receives in accordance with the State's law. For example, some States may have additional enforcement remedies that do not exist in the Federal PLS, such as seizure of lottery or gambling winnings. In addition, States administer the placement of children involved in IV-B and IV-E cases, and must abide by minimum Federal guidelines. States have broad discretion to implement their IV-B and IV-E programs, as long as they comport with the minimum Federal guidelines.

7. *Comment:* The regulation should acknowledge that establishing parental rights is part of assisting States to carry out their responsibilities under IV-B and IV-E.

*Response:* We agree that establishing parental rights is part of assisting States to carry out their responsibilities under titles IV-B and IV-E of the Act. We will work with our IV-B and IV-E colleagues in defining States' program responsibilities.

8. *Comment:* Two commenters raised a number of questions about information that is gathered as part of the application process for child support services and kept on file at the child support agency. These commenters wanted to know: What type of case-specific information is currently entered and retained in OCSE databases; whether location information could be separated from other types of information in the databases; if notice is provided to IV-D clients about the types of information entered and retained in the databases, and with whom and for what purposes may it be shared. The commenters also wanted to know whether there are opportunities

available for the person providing the information to view and correct inaccuracies before sharing occurs; if informed consent is provided prior to OCSE sharing information with other agencies; if the client has the ability to limit any aspect of data sharing, and whether IV-D workers could be subject to a subpoena in child welfare cases in which decisions were made based on data secured from the OCSE database.

*Response:* Applications for child support services, although developed by each State agency, must contain Federally required data elements which are uploaded onto the State's automated system. OCSE's databases, such as the National Directory of New Hires and the Federal Case Registry must have system of records notices that provide notice to the public with respect to the collection of information on individuals and procedures for contesting the accuracy of a record. The system of records notices are currently in the process of being updated and should be in effect prior to the effective date of this rule. Also, see the Privacy Act and Paperwork Reduction Act notice on the Internal Revenue Service form W-4 form, available at <http://www.irs.gov/pub/irs-pdf/fw4.pdf>.

Additionally, location information can be separated from other types of data. Many States have a generic disclosure statement regarding the information collected on individuals and with whom it may be shared. States also proactively urge clients to update demographic information. A growing trend among States is the establishment of customer service Web sites which permit and/or encourage clients to review and update other information in the State's database.

Informed consent is not provided prior to OCSE sharing information with other agencies. Title IV-B and IV-E agencies are authorized by law to access this information under section 453(j)(3) of the Act for the purpose of carrying out their programs. Rediscovery of information is not addressed in this rule. Presently, such information must be independently verified before rediscovery by the IV-B or IV-E agency is permitted.

9. *Comment:* One commenter stated that 42 U.S.C. 653(j) clearly seemed to contemplate that not only will the IV-D agency share matches—the pairing of a known identity with additional elements—but it also will disclose information, including the identity of a person who may not previously have been known, to the IV-B and IV-E agency.

*Response:* This final regulation authorizes the sharing of information

with IV-B and IV-E agencies available through the State PLS to locate relatives for potential placement of a child removed from parental custody, to place siblings in groups, and to otherwise assist State agencies in permanency planning activities. Information which may be disclosed about a child or a relative of children involved in IV-B and IV-E cases is limited to name, SSN, most recent address, employer name, and address and employer identification number. To the extent that a relative is "identified" through use of the Federal PLS and the State PLS, that information may be shared with IV-B and IV-E agencies. This final regulation also authorizes the sharing of information with IV-B and IV-E agencies available from the statewide automated system pursuant to section 454A(f)(3) of the Act, to assist such programs to carry out program functions.

Child welfare agencies do not have direct access to statewide child support automated systems to permit IV-B and IV-E caseworkers to search for data. Only certain IV-D staff have direct access to the Federal PLS. Courts and other programs do not. State IV-A, IV-B, and IV-E agencies will work together to develop appropriate transactions for an automated information exchange between the agencies to ensure adherence to proper data safeguarding standards as set forth in this regulation.

10. *Comment:* One commenter said that New York State is a State-supervised, county administered State. The commenter would like to know explicitly how the process of access to information from the State PLS would function in that State. The commenter also asked whether the information would be available directly to the local departments of Social Services, and how requests for information would be transmitted and received.

*Response:* We acknowledge that States organize and operate their programs differently. OCSE is currently in discussions with our Federal counterparts in the child welfare and domestic violence programs to develop broad based implementing guidance that States can use in their specific operational environments.

11. *Comment:* One commenter asked if the final regulation imposes any limitations on rediscovery of information by local departments of social services in performing their child welfare functions.

*Response:* We direct the commenter to Appendix A. Whether rediscovery is permitted depends upon the purpose of the inquiry, and the agency requesting the data. Title IV-B and IV-E agencies are authorized by law to access this

information for the purpose of carrying out their programs. Redisclosure of information is not addressed in this rule. Presently, such information needs to be independently verified before redisclosure is permitted. OCSE and its counterparts in Federal child welfare and domestic violence programs will provide instructions in the future.

12. *Comment:* One commenter noted that currently there is a jointly-issued administrative directive which references how referrals for locating absent parents travel from child welfare to local IV–D units. The local IV–D units access Federal PLS and State PLS and return information back to local child welfare agencies. The commenter would like to see a new jointly-issued administrative directive as a result of the publication of this final rule.

*Response:* We agree that the jointly issued directive: ACYF–CB–IM–07–06/OCSE–IM–07–06, *Appropriate Referrals, Requests for Location Services, Child Support Applications, and Electronic Interface between Child Welfare and Child Support Enforcement Agencies*, issued on September 6, 2007, is an important document for the interoperability of the child support, domestic violence, and child welfare programs. We will collaborate with the Administration on Children, Youth and Families of HHS to update this joint document as appropriate.

13. *Comment:* One commenter suggested that the purpose of disclosure should guide the amount of information disclosed rather than the specific relative relationship between the requester and the child. The commenter supported the broader disclosure regulated at § 302.35(d)(1) and the more limited disclosure regulated at § 302.35(d)(2).

*Response:* We agree with the commenter. As provided in the regulation, the purpose of a request does control the nature of the data disclosed. The Appendices provide guidance as to the information that may be disclosed and the agencies to which the information may be disclosed depending on the purpose for which the information is being requested.

14. *Comment:* One commenter stated that title IV–B and IV–E agencies should be provided with at least the six pieces of information [name, Social Security Number, address, employer’s name, employer’s address, and employer identification number]. The commenter also encouraged the sharing of additional contact information, such as telephone numbers and e-mail addresses, if the Federal PLS or State PLS maintains these sources of information.

*Response:* The final regulation at § 302.35(d)(2) clearly establishes that for the purposes of assisting States to carry out their responsibilities to administer the IV–B and IV–E programs, the information that may be disclosed with respect to a child or relative of a child involved in a IV–B or IV–E case is limited to: Name, SSN, most recent address, employer name and address, and employer identification number. The Federal PLS does not maintain additional contact information such as telephone numbers and e-mail addresses. Additionally, if the case has an FVI marker, then *no* information about the case may be shared for any reason. Section 453(b)(2) of the Act says: “no information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child.” Information from cases marked with the FVI may be released to a court or an agent of a court pursuant to the procedure set forth in section 453(b)(2)(A) and (B).

15. *Comment:* One commenter stated that child welfare agencies do not need extensive information if their intent is to locate noncustodial parents, or to identify and/or locate grandparents or other relatives to carry out the purpose of the IV–B or IV–E program. The commenter encourages sharing any other contact information such as telephone numbers and e-mail addresses, if they are maintained on the State PLS or Federal PLS.

*Response:* As stated above, the information that may be disclosed about a child or relative of a child involved in a IV–B or IV–E case is limited to name, SSN, most recent address, employer name and address, and employer identification number.

16. *Comment:* One commenter noted that section 453(j)(3) of the Act directs the Secretary to disclose Federal PLS information to State agencies and the regulation directs the State PLS to disclose confidential information only from in-State sources regarding non-parent relatives; the regulation also excludes IV–B and IV–E agencies from receiving Federal PLS information regarding non-parent relatives. The commenter questioned the statutory authority for § 302.35(d)(2). The commenter recommended deleting § 302.35(d)(2) because the lack of a clear statutory basis creates liability for State IV–D agencies.

*Response:* We disagree that there is not a clear statutory basis for the disclosure of information at § 302.35(d)(2). The Fostering Connections Act amended section

453(j)(3) of the Act to include IV–B and IV–E agencies. While certain IV–D staff have direct access to the Federal PLS; courts and other programs do not have access. Requests for information from the Federal PLS must flow through the State PLS. Federal PLS information is not excluded.

17. *Comment:* Two commenters said that if data was exchanged between child support and child welfare agencies through an interagency agreement, provisions for implementation and enforcement of privacy and family violence safety protections should be required. This final rule should mandate the provisions to be included in the interagency agreements to facilitate compliance with the safeguarding rules. Those agreements should also contain provisions for informed consent to disclosures.

*Response:* As stated earlier in this preamble, when there is data sharing between two agencies, an interagency agreement strengthens the integrity of the agencies involved to safeguard the information. Intergovernmental agreements support the integrity and security of an intergovernmental system when data is shared. Any interagency agreement should contain provisions that comport with this final rule. Disclosures under section 453 of the Act do not require consent of the individual. Such disclosures are considered to be a routine use of the information collected under the Privacy Act.

18. *Comment:* One commenter noted that the Children’s Bureau recently issued guidance on The Fostering Connections Act, encouraging States to employ a consistent definition of “relative” for the purposes of any guardianship assistance program and any notification that is carried out pursuant to The Fostering Connections Act. States are permitted to include non-blood relatives or “fictive kin” when defining “relative.” The commenter suggests States be provided the latitude to use “fictive kin” when implementing this rule.

*Response:* OCSE defers to States’ definitions of “relative.”

#### *Section 303.21—Safeguarding and Disclosure of Confidential Information*

1. *Comment:* One commenter stated that under § 303.21(d)(1), the IV–D agency is not required to provide locate services to other State agencies performing duties under title IV, XIX, XXI, and SNAP if it is determined that doing so would interfere with the IV–D agency meeting its own obligations. The commenter said that the same provision should apply when providing location

information to authorized individuals in non-IV–D cases under section § 302.35.

*Response:* The statutory change made by The Fostering Connections Act contemplates that child support agencies will exchange data with IV–B and IV–E programs.

2. *Comment:* One commenter said that the response to comment 32, page 56437 of the final rule, published on September 26, 2008, implies that before IV–D agencies can disclose address or employment information received from the FCR or NDNH to the Medicaid agency, the IV–D agency is expected to verify the information through postal verifications or wages.

*Response:* The response to comment 32 in the final rule published on September 26, 2008, was meant as an example. We used postal verification in that instance for illustrative purposes only. Independent verification, as defined in § 303.21(a)(2), is still valid: “Independent verification is the process of acquiring and confirming confidential information through the use of a second source. The information from the second source, which verifies the information about NDNH or FCR data, may be released to those authorized to inspect and use the information as authorized under the regulations or the Act.” This final rule did not change § 303.21(a)(2).

*Section 303.70—Procedures for Submissions to the State Parent Locator Service (State PLS) or the Federal Parent Locator Service (Federal PLS)*

1. *Comment:* One commenter noted that although not open for comment, § 303.70(d)(1) needs to be revised to correspond with the change intended to permit location information for non-parent relatives. The paragraph refers to information to be provided to parents and putative parents. Without corresponding changes, the commenter noted conflicts may arise in providing non-parent relative information to IV–D and IV–B agencies.

*Response:* We agree that a conforming change is appropriate and have made the corresponding change. The final regulation at § 303.70(d)(1) now reads: “The parent’s, putative father’s or non-parent relative’s name; \* \* \*.”

2. *Comment:* One commenter observed that State IV–D directors are required to annually attest that the State IV–D agency only will obtain information from the Federal PLS that meets Federal requirements. Any conflict in requirements for State PLS and Federal PLS increases the risks for States that must interpret and apply the law correctly.

*Response:* States should continue to be diligent in meeting requirements and assessing risks. States are responsible for applying these laws.

*Section 307.13—Security and confidentiality for computerized support enforcement systems in operation after October 1, 1997*

1. *Comment:* One commenter stated that the automated systems guide requires States to have data exchanges with title XXI for establishing and enforcing medical support. The elements include address, name, employer, and employer address. In Florida, all SSNs are verified by the Federal Case Registry (FCR). The FCR is the only verification source used for SSNs. Under the new requirements, States will be required to reprogram systems to identify each data element’s verification source, isolate National Directory for New Hires (NDNH) and FCR sources and only exchange data that does not have a verification source of NDNH and FCR. The commenter further explained that the final rule in 2008 (73 FR 56437, response to comment 42) stated that independent verification is not required but “is merely a condition that must be met if the State wishes to use or disclose information for non-IV–D purposes to non-authorized persons. There is no such restriction in IV–D cases.” That rule says that IV–D agencies are required to exchange information with title XIX and SSI using the automated system and would not require independent verification because it was used for IV–D purposes. Is that still the case or does this new rule supersede that?

*Response:* This rule revised only certain sections of the *State Parent Locator Services, Safeguarding Child Support Information; Final Rule* that was published on September 26, 2008. This final rule does not change the fact that child support agencies may exchange data from the automated child support system with title XIX and title IV programs under section 454A(f)(3) of the Act, and sections 303.21(d)(1) and 307.13(a)(3) and (4), without independent verification. The only limitation in the final rule is that IRS information must be independently verified before being exchanged with title IV or title XIX programs and MSFIDM data may not be shared, even if independently verified. Therefore, this final rule does not supersede the final rule published on September 26, 2008 [73 FR 56422] as it relates to data exchanges with title XIX agencies. Regarding the SSI program, SDNH information may be shared for benefits

eligibility verification pursuant to section 453A(h)(2)

2. *Comment:* One commenter was pleased to see the inclusion of SNAP on the list of authorized recipients of child support information. Another commenter questioned the different requirements for disclosure in § 307.13(a)(3) and § 307.13(a)(4)(iii) and § 307.13(a)(4)(iv).

*Response:* The commenter was correct that there are different requirements for disclosure under § 307.13(a)(3) and § 307.13(a)(4)(iii) and § 307.13(a)(4)(iv). Under § 307.13(a)(3), information may be disclosed to Medicaid, SNAP, and CHIP to the extent necessary to carry out their program responsibilities to the extent that the information disclosure does not interfere with the IV–D program meeting its own obligations. Under § 307.13(a)(4), the disclosure of NDNH, FCR, FIDM, and IRS information may not be shared outside the program except with IV–B and IV–E agencies. Under section 454A(f)(3) of the Act, the Secretary has designated the title IV programs and thus authorized the release of that information to title IV programs. Title IV–B and IV–E programs are within the scope of the authority as set forth by those delegations.

#### Appendices

1. *Comment:* One commenter said that in the final rule published on September 26, 2008, the response to comment 39 stated that not all information received from the FCR is part of the FCR database and not subject to independent verification. Appendix A does not specify which data elements available from the FCR are subject to independent verification and which are not subject to independent verification. The commenter further explained that States need specific information on which data elements in which automated files are subject to independent verification.

*Response:* The data that is subject to independent verification is dependent upon several factors. The charts in the Appendices to this final rule are intended to assist the States in determining what data can be shared with which agencies from the different systems of information available to the State. *i.e.*, the automated statewide child support enforcement system, the State PLS, or the State Directory of New Hires, and for which purposes. OCSE will continue to assist States in ensuring that their statewide child support enforcement systems are programmed to be compliant with these data safeguarding rules.

2. *Comment:* One commenter said that the language in the “Limitations” column in Appendix A that states, “no



Internal Revenue Service information provided for non-IV-D cases unless independently verified” should be eliminated because IRS tax information cannot be disclosed for any reason, IV-D or non-IV-D, unless obtained by a third party. The preamble to the rule published on September 26, 2008 states: “There is no way to independently verify Federal Tax refund offset information. We continue to work with the Department of Treasury and the Congress to resolve this issue.”

*Response:* We are not persuaded that this language should be eliminated from the Appendix. Independent verification, as defined in § 303.21(a)(2), is still valid and reads: “Independent verification is the process of acquiring and confirming confidential information through the use of a second source. The information from the second source, which verifies the information about NDNH or FCR data, may be released to those authorized to inspect and use the information as authorized under the regulations or the Act.”

3. *Comment:* One commenter requested changes to the “Limitations” column in Appendix A. The commenter said that multi-State and in-State financial institution information is not available for non-IV-D cases. The wording in the Limitation “provide for non-IV-D cases” implies that State IV-D agencies are required to disclose Financial Institution Data Match (FIDM) information for non-IV-D cases. The suggestion was to revise the text to clarify that FIDM information cannot be disclosed outside of the IV-D program to any entity for any purpose. The same comment applies to resident parents, legal guardians, and attorneys.

*Response:* We disagree and have not amended the “Limitations” column. Please note that the column states “no multistate institution data match (MSFIDM) and no State Financial Institution Data Match (FIDM) provided for non-IV-D cases.”

4. *Comment:* One commenter stated that the last row of the Appendix A, which refers to IV-B and IV-E receiving information on relatives of children,

include both Federal PLS and State PLS as sources, but the regulatory language at § 302.35(d)(2) does not include Federal PLS.

*Response:* The regulatory language at § 302.35(d)(2) references § 302.35(d)(1) which states that information through the Federal PLS may be provided. The Appendix is accurate as it relates to Federal and State PLS as sources of information.

5. *Comment:* One commenter suggests that Tribal IV-D agencies be listed as a separate “authorized person/program” in Appendix A because it appears as if Tribal agencies have different access and limitations than those who would fall under “non-IV-D requests.”

*Response:* Tribal IV-D agencies may acquire FIDM information through their State counterparts provided they have an interagency agreement in effect with the State. Many Tribal IV-D programs have these agreements in place and are receiving the information. We do not agree that Tribal IV-D agencies should be listed as a separate “authorized person/program” and have not made that change to the Appendix.

6. *Comment:* One commenter noted that PIQ-07-02/PIQT-07-02, *FFP for State Automated Systems Costs related to Service Agreements with Tribal IV-D Programs; Submitting Tribal IV-D cases for Federal Tax Refund Offset; and Submitting Requests to the Federal Parent Locator Service (FPLS) in Tribal IV-D states* that access to information from a source other than the IRS can be provided to Tribal IV-D programs. However, Appendix A indicates that no MSFIDM can be provided for non-IV-D cases. Can that information be disclosed to Tribal agencies?

*Response:* Tribal IV-D programs do not have direct access to the Federal PLS. However, Tribal IV-D programs may access information from the Federal PLS through an interagency agreement with the State in accordance with the change made to section 302.35(c)(1). Should a Tribal IV-D program enter into an interagency agreement with the State for access to this information, it is bound by these

safeguarding regulations as noted in Footnote 2 to Appendix A. For additional information, see PIQT 10-01.

7. *Comment:* One commenter noted that the Appendix A limitations include “child not receiving IV-A benefits” and that attestation and evidence are required for Tribal IV-D programs. Is the intent that a Tribal IV-D program request associated with a child not receiving benefits not be honored? Is the intent that attestation, evidence, and a fee, be required for Tribal IV-D program access?

*Response:* The commenter correctly points out that Tribal IV-D programs should be included in the list of those considered as an authorized program. We agree and added new language to § 302.35(c)(1) which indicates that a Tribal IV-D agency that provides child support services under an approved Tribal IV-D plan and has an intergovernmental agreement in place with a State for the provision of Federal PLS services, is an authorized program and may request locate information from the State PLS. For additional information, see PIQT 10-01.

8. *Comment:* One commenter noted that Appendix C describes the disclosure of broader information to potentially multiple agencies. The Appendix does not include “Footnote 1” on limitations that is in both Appendices A and B. That footnote should be in Appendix C.

*Response:* We agree. In this final rule, the footnote was added to Appendix C and now reads: “No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the CP or child. See sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or agent of a court.”

APPENDIX A—LOCATING INDIVIDUALS THROUGH THE STATE PLS § 302.35

Authorized person/program	Authorized purpose of the request	Persons about whom information may be asked	Sources searched	Authorized information returned	Limitations <sup>1</sup>
<p>Agent/attorney of a State who has the duty or authority to collect child and spousal support under the IV–D plan. Tribal IV–D having in effect an intergovernmental agreement with a State IV–D agency, for the provision of Federal PLS services. Section 453(c)(1) and 454(7).</p>	<p>Establish paternity, establish, set the amount, modify, or enforce child support obligations and or to facilitate the location of any individual who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed.</p> <p>Locate a parent or child involved in a non-IV–D child support case to disburse an income withholding collection.</p> <p>Section 453(a)(2) .....</p>	<p>Noncustodial Parent Putative Father ..... Custodial Parent ..... Child ..... Section 453(a)(2)(A)</p>	<p>Federal Parent Locator Service. In-state sources in accordance with State law.</p>	<p>Six Elements: Person's Name, Person's SSN, Person's address, Employer's name, Employer's address, Employer Identification Number.</p> <p>Section 453(a)(2)(A)(iii). Wages, income, and benefits of employment, including health care coverage.</p> <p>Section 453(a)(2)(B) Type, status, location, and amount of assets or debts owed by or to the individual.</p> <p>Section 453(a)(2)(C)</p>	<p>See footnote.</p>
<p>Court that has the authority to issue an order against an NCP for the support and maintenance of child, or to serve as the initiating court in an action to seek a child support order. Section 453(c)(2).</p>	<p>To facilitate the location of any individual who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed.</p> <p>Locate a parent or child involved in a non-IV–D child support case.</p>	<p>Noncustodial Parent Custodial Parent ..... Putative Father ..... Child .....</p>	<p>Federal Parent Locator Service. In-state sources in accordance with State law.</p>	<p>Six Elements as above, plus. Wages, income, and benefits of employment, including health care coverage.</p> <p>Section 453(a)(2)(B) Type, status, location, and amount of assets or debts owed by or to the individual.</p> <p>Section 453(a)(2)(C)</p>	<p>No Internal Revenue Service (IRS) information provided for non-IV–D cases unless independently verified.</p> <p>No Multistate Financial Institution Data Match (MSFIDM) and no State Financial Institution Data Match (FIDM) information provided for non-IV–D cases.</p> <p>No required subsequent attempts to locate unless there is a new request.</p>
<p>Resident parent, legal guardian, attorney, or agent of a child not receiving IV–A benefits (a non-IV–D child support request). Section 453(c)(3)<sup>2</sup>.</p>	<p>To facilitate the location of any individual who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed, or who has or may have parental rights with respect to the child.</p> <p>Locate a parent or child involved in a non-IV–D child support case.</p>	<p>Noncustodial Parent Putative Father .....</p>	<p>Federal Parent Locator Service. In-state sources in accordance with State law.</p>	<p>Six Elements as above, plus. Wages, income, and benefits of employment, including health care coverage.</p> <p>Section 453(a)(2)(B) Type, status, location, and amount of assets or debts owed by or to the individual.</p> <p>Section 453(a)(2)(C)</p>	<p>Child not receiving IV–A benefits.</p> <p>No IRS Information.</p> <p>No MSFIDM and no State FIDM information provided for non-IV–D cases.</p> <p>In a non-IV–D request, attestation and evidence is required as specified in § 302.35(c)(3)(i)–(iii).</p> <p>No required subsequent attempts to locate unless there is a new request.</p>

APPENDIX A—LOCATING INDIVIDUALS THROUGH THE STATE PLS § 302.35—Continued

Authorized person/program	Authorized purpose of the request	Persons about whom information may be asked	Sources searched	Authorized information returned	Limitations <sup>1</sup>
State agency that is administering a Child and Family Services program (IV-B) or a Foster Care and Adoption IV-E program. Sections 453(c)(4), 453(j)(3), and 454(8).	To facilitate the location of any individual who has or may have parental rights with respect to the child. Section 453(a)(2)(iv); and to assist states in carrying out their responsibilities under title IV-B and IV-E programs. Sections 453(j)(3) and 454(8).	Noncustodial Parent Putative Father ..... Custodial Parent Child. Sections 453(a)(2)(A), 453(j)(3), and 454(8).	Federal Parent Locator Service. In-state sources in accordance with State law.	Six Elements as above, plus. Wages, income, and benefits of employment, including health care coverage. Type, status, location, and amount of assets or debts owed by or to the individual. Section 453(a)(2)(C)	No IRS information unless independently verified. No MSFIDM information and no State FIDM information provided. Any information outside the purpose stated in Section 453(a)(2) and Section 453(j)(3) requires independent verification.
State agency that is administering a Child and Family Services program (IV-B) or a Foster Care and Adoption IV-E program. Sections 453(j)(3) and 454(8).	To assist states in carrying out their responsibilities under title IV-B and IV-E programs. Sections 453(j)(3) and 454(8).	Relatives of a child involved in a IV-B or IV-E case.	Federal Parent Locator Service. In-state sources in accordance with State law.	Six Elements as above.	No IRS information unless independently verified. No MSFIDM information and no State FIDM information provided. Any information outside the purpose stated in Section 453(j)(3) requires independent verification.

<sup>1</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the CP or child. See sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or agent of a court.

<sup>2</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the CP or child. See sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or agent of a court.

APPENDIX B—LOCATING AN INDIVIDUAL SOUGHT IN A CHILD CUSTODY/VISITATION OR PARENTAL KIDNAPPING CASE

Type of request	Authorized person/program	Authorized purpose of the request	About whom information may be requested	Sources searched	Authorized information returned	Limitations <sup>2</sup>
Locating an individual sought in a child custody or visitation case	Any agent or attorney of any State who has the authority/duty to enforce a child custody or visitation determination. § 463(d)(2)(A) A court, or agent of the court, having jurisdiction to make or enforce a child custody or visitation determination. § 463(d)(2)(B)	Determining the whereabouts of a parent or child to make or enforce a custody or visitation determination. § 463(a)(2)	A parent or child. § 463(a)	Federal Parent Locator Service In-state sources in accordance with State law.	Only the three following elements: Person's address, Employer's name, Employer's address, § 463(c)	See footnote. No IRS information provided. No MSFIDM or State FIDM information provided. No subsequent attempts to locate unless there is a new request.

APPENDIX B—LOCATING AN INDIVIDUAL SOUGHT IN A CHILD CUSTODY/VISITATION OR PARENTAL KIDNAPPING CASE—  
Continued

Type of request	Authorized person/program	Authorized purpose of the request	About whom information may be requested	Sources searched	Authorized information returned	Limitations <sup>2</sup>
Locating an individual sought in a parental kidnapping case	Agent or attorney of the U.S. or a State who has authority/duty to investigate, enforce, or prosecute the unlawful taking or restraint of a child. § 463(d)(2)(C)	Determining the whereabouts of a parent or child to enforce any State or Federal law with respect to the unlawful taking or restraint of a child. § 463(a)(1)	A parent or child. § 463(a)	Federal Parent Locator Service. In-state sources in accordance with State law.	Only the three following elements: Person's address, Employer's name; Employer's address, § 463(c).	See footnote. No IRS information provided. No MSFIDM or State FIDM information provided. No subsequent attempts to locate unless there is a new request.

<sup>2</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the CP or child. See sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or agent of a court.

APPENDIX C—AUTHORITY FOR STATE IV–D AGENCIES TO RELEASE INFORMATION TO NON–IV–D FEDERAL, STATE, AND TRIBAL PROGRAMS

Authority	Authorized purpose of request	Authorized person/program	Authorized information returned	Limitations <sup>3</sup>
Sections 453 and 454A(f)(3) of the Act, Section 1102 of the Act, and 45 CFR 307.13.	To perform State or Tribal agency responsibilities of designated programs.	State or Tribal agencies administering title IV, XIX, and XXI, and SNAP programs.	Confidential information found in automated system.	No Internal Revenue Service information unless independently verified. No MSFIDM or State FIDM information provided. No NDNH and FCR information for title XIX and XXI unless independently verified. For IV–B/IV–E, for purpose of section 453(a)(2) of the Act can have NDNH and FCR information without independent verification. — Any other purpose requires independent verification. For IV–A NDNH/FRC information for purposes of section 453(j)(3) of the Act without independent verification. — Need verification for other purposes.
Sections 453A(h)(2) and 1137 of the Act—State Directory of New Hires.	Income and eligibility verification purposes of designated programs.	State agencies administering title IV–A, Medicaid, unemployment compensation, SNAP, or other State programs under a plan approved under title I, X, XIV, or XVI of the Act.	SDNH information: Individual's name, address and SSN; employer's name, address, and Federal employer identification number.	

<sup>3</sup> No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the CP or child. See sections 453(b)(2) and 454(26) of the Act for the process of releasing information to a court or agent of a court.

**Paperwork Reduction Act**

Section 302.35(c) contains an information collection requirement. As

required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families (ACF) has submitted a copy of

this section to the Office of Management and Budget (OMB) for its review in tandem with the final rule published on

September 26, 2008. There are no changes to this section.

### Regulatory Flexibility Analysis

The Secretary certifies that, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), this rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments. State governments are not considered small entities under the Act.

### Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. The changes would not significantly alter States' child support enforcement operations. This regulation responds to State requests for guidance on data privacy issues and therefore should not raise negative impact concerns.

### Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year adjusted annually for inflation. The threshold for 2010, adjusted for inflation is \$135 million. If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. We have determined that this rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than \$135 million in 2010. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small governments. There are no costs associated with this regulation. It clarifies the protection of confidential information contained in the records of

State child support enforcement agencies.

### Congressional Review

This rule is not a major rule as defined in 5 U.S.C. chapter 8.

### Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. This regulation protects the confidentiality of information contained in the records of State child support enforcement agencies. These regulations will not have an adverse impact on family well-being as defined in the legislation.

### Executive Order 13132

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism impact as defined in the Executive order.

### List of Subjects

#### 45 CFR Part 301

Child support, definitions.

#### 45 CFR Part 302

Child support, Grants programs/social programs, Reporting and recordkeeping requirements.

#### 45 CFR Part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

#### 45 CFR Part 307

Child support, Grant programs/social programs, Computer technology, Requirements, Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program.)

Dated: September 30, 2010.

**David A. Hansell,**

*Acting Assistant Secretary for Children and Families.*

Approved: November 5, 2010.

**Kathleen Sebelius,**

*Secretary of Health and Human Services.*

■ Accordingly, the Department of Health and Human Services amends title 45 chapter III of the Code of Federal Regulations as follows:

### PART 301—STATE PLAN REQUIREMENTS

■ 1. The authority citation for part 301 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1301, and 1302.

■ 2. Section 301.1 is amended by adding a definition for “agent of a child” and “attorney of a child” in alphabetical order to read as follows:

#### § 301.1 General definitions.

*Agent of a Child* means a caretaker relative having custody of or responsibility for the child.

*Attorney of a Child* for means a licensed lawyer who has entered into an attorney-client relationship with either the child or the child's resident parent to provide legal representation to the child or resident parent related to establishment of paternity, or the establishment, modification, or enforcement of child support. An attorney-client relationship imposes an ethical and fiduciary duty upon the attorney to represent the client's best interests under applicable rules of professional responsibility.

### PART 302—STATE PLAN REQUIREMENTS

■ 3. The authority citation for part 302 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396(k).

■ 4. Amend § 302.35 by revising paragraphs (a)(2)(i), (c)(1) through (3) and (d) to read as follows:

#### § 302.35 State parent locator service.

(a) \* \* \*

(2) \* \* \*

(i) The State PLS shall access and release information authorized to be disclosed under section 453(a)(2) and 453(j)(3) of the Act from the Federal PLS and, in accordance with State law, information from relevant in-State sources of information and records, as appropriate, for locating custodial parents, noncustodial parents, non-parent relatives, and children upon

request of authorized individuals specified in paragraph (c) of this section, for authorized purposes specified in paragraph (d) of this section.

\* \* \* \* \*

(c) \* \* \*

(1) Any State or local agency providing child and spousal support services under the State plan, and any Tribal IV-D agency providing child and spousal support services under a Tribal plan approved under 45 CFR Part 309, provided the State and Tribe have in effect an intergovernmental agreement for the provision of Federal PLS services;

(2) A court that has authority to issue an order or to serve as the initiating court in an action to seek an order against a noncustodial parent for the support and maintenance of a child, or any agent of such court;

(3) The resident parent, legal guardian, attorney, or agent of a child who is not receiving assistance under title IV-A of the Act only if the individual:

(i) Attests that the request is being made to obtain information on, or to facilitate the discovery of, any individual in accordance with section 453(a)(2) of the Act for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations;

(ii) Attests that any information obtained through the Federal or State PLS shall be used solely for these purposes and shall be otherwise treated as confidential;

(iii) Attests that the requestor is the resident parent, legal guardian, attorney, or agent of a child not receiving assistance under title IV-A; and

(iv) Pays the fee required for Federal PLS services under section 453(e)(2) of the Act and § 303.70(f)(2)(i) of this chapter, if the State does not pay the fee itself. The State may also charge a fee to cover its costs of processing the request, which must be as close to actual costs as possible, so as not to discourage requests to use the Federal PLS. If the State itself pays the fee for use of the Federal PLS or the State PLS in a non-IV-D case, Federal financial participation is not available in those expenditures.

\* \* \* \* \*

(d) *Authorized purposes for requests and scope of information provided.* The State PLS shall obtain location information under this section only for the purpose specified in paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of this section.

(1) *To locate an individual with respect to a child in a IV-D, non-IV-D,*

*IV-B, or IV-E case.* The State PLS shall locate individuals for the purpose of establishing parentage, or establishing, setting the amount of, modifying, or enforcing child support obligations or for determining who has or may have parental rights with respect to a child. For these purposes, only information in the Federal PLS or the State PLS may be provided. This information is limited to name, Social Security Number(s), most recent address, employer name and address, employer identification number, wages or other income from, and benefits of, employment, including rights to, or enrollment in, health care coverage, and asset or debt information.

(2) *To assist States in carrying out their responsibilities under title IV-D, IV-A, IV-B, and IV-E programs.* In addition to the information that may be released pursuant to paragraph (d)(1) of this section, State PLS information may be disclosed to State IV-D, IV-A, IV-B, and IV-E agencies for the purpose of assisting States to carry out their responsibilities to administer title IV-D, IV-A, IV-B, and IV-E programs, including information to locate an individual who is a child or a relative of a child in a IV-B or IV-E case. Information that may be disclosed about relatives of children involved in IV-B and IV-E cases is limited to name, Social Security Number(s), most recent address, employer name and address and employer identification number.

(3) *To locate an individual sought for the unlawful taking or restraint of a child or for child custody or visitation purposes.* The State PLS shall locate individuals for the purpose of enforcing a State law with respect to the unlawful taking or restraint of a child or for making or enforcing a child custody or visitation determination as defined in section 463(d)(1) of the Act. This information is limited to most recent address and place of employment of a parent or child.

\* \* \* \* \*

**PART 303—STANDARDS FOR PROGRAM OPERATIONS**

■ 5. The authority citation for part 303 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

■ 6. Amend § 303.20 by revising paragraph (b)(7) to read as follows:

**§ 303.20 Minimum organizational and staffing requirements.**

\* \* \* \* \*

(b) \* \* \*

(7) Operation of the State PLS as required under §§ 302.35, 303.3, and 303.70 of this chapter.

\* \* \* \* \*

■ 7. Amend § 303.21 by revising paragraph (d)(1) introductory text to read as follows:

**§ 303.21 Safeguarding and disclosure of confidential information.**

\* \* \* \* \*

(d) *Authorized disclosures.* (1) Upon request, the IV-D agency may, to the extent that it does not interfere with the IV-D agency meeting its own obligations and subject to such requirements as the Office may prescribe, disclose confidential information to State agencies as necessary to assist them to carry out their responsibilities under plans and programs funded under titles IV (including Tribal programs under title IV), XIX, or XXI of the Act, and the Supplemental Nutrition Assistance Program (SNAP), including:

\* \* \* \* \*

■ 8. Revise § 303.69(c) to read as follows:

**§ 303.69 Requests by agents or attorneys of the United States for information from the Federal Parent Locator Service (Federal PLS).**

\* \* \* \* \*

(c) All requests under this section shall contain the information specified in § 303.70(d) of this part.

\* \* \* \* \*

- 9. Amend § 303.70 by:
  - a. Revising paragraphs (a) and (d)(1);
  - b. Redesignating paragraph (d)(3) as (d)(4);
  - c. Adding new paragraph (d)(3); and
  - d. Revising paragraphs (e) introductory text, (e)(1)(i), and (e)(2).

The revisions and addition read as follows:

**§ 303.70 Procedures for submissions to the State Parent Locator Service (State PLS) or the Federal Parent Locator Service (Federal PLS).**

(a) The State agency will have procedures for submissions to the State PLS or the Federal PLS for the purpose of locating parents, putative fathers, or children for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support obligations; for the purpose of enforcing any Federal or State law with respect to the unlawful taking or restraint of a child or making or enforcing a child custody or visitation determination as defined in section 463(d)(1) of the Act, or for the purpose of assisting State agencies to carry out their responsibilities under

title IV–D, IV–A, IV–B, and IV–E programs.

\* \* \* \* \*

(d) \* \* \*

(1) The parent’s, putative father’s or non-parent relative’s name; \* \* \*

(3) The non-parent relative’s SSN, if known.

(4) Any other information prescribed by the Office.

(e) The director of the IV–D agency or his or her designee shall attest annually to the following:

(1)(i) The IV–D agency will only obtain information to facilitate the location of any individual in accordance with section 453(a)(2) of the Act for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or for determining who has or may have parental rights with respect to a child, or in accordance with section 453(a)(3) of the Act for enforcing a State law with respect to the unlawful taking or restraint of a child, or for making or enforcing a child custody or visitation determination as defined in section 463(d)(1) of the Act, or in accordance with section 453(j)(3) of the Act for the purpose of assisting State agencies to carry out their responsibilities under title IV–D, IV–A, IV–B, and IV–E programs.

\* \* \* \* \*

(2) In the case of a submittal made on behalf of a resident parent, legal guardian, attorney or agent of a child not receiving assistance under title IV–A, the IV–D agency must verify that the requesting individual has complied with the provisions of § 302.35 of this chapter.

\* \* \* \* \*

**PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS IN OPERATION AFTER OCTOBER 1, 1997**

■ 10. The authority citation for part 307 continues to read as follows:

**Authority:** 42 U.S.C. 652 through 658, 664, 666 through 669A, and 1302.

■ 11. Amend § 307.13 by revising paragraphs (a)(3), (4)(iii), and (iv) to read as follows:

**§ 307.13 Security and confidentiality for computerized support enforcement systems in operation after October 1, 1997.**

\* \* \* \* \*

(a) \* \* \*

(3) Permit disclosure of information to State agencies administering programs under titles IV (including Tribal programs under title IV), XIX, and XXI of the Act, and SNAP, to the extent

necessary to assist them to carry out their responsibilities under such programs in accordance with section 454A(f)(3) of the Act, to the extent that it does not interfere with the IV–D program meeting its own obligations and subject to such requirements as prescribed by the Office.

(4) \* \* \*

(iii) NDNH and FCR information may be disclosed without independent verification to IV–B and IV–E agencies to locate parents and putative fathers for the purpose of establishing parentage or establishing parental rights with respect to a child; and

(iv) NDNH and FCR information may be disclosed without independent verification to title IV–D, IV–A, IV–B and IV–E agencies for the purpose of assisting States to carry out their responsibilities to administer title IV–D, IV–A, IV–B and IV–E programs.

\* \* \* \* \*

[FR Doc. 2010–32424 Filed 12–28–10; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 209 and 252**

**[DFARS Case 2009–D015]**

**RIN 0750–AG63**

**Defense Federal Acquisition Regulation Supplement; Organizational Conflicts of Interest in Major Defense Acquisition Programs**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 207 of the Weapon Systems Acquisition Reform Act of 2009. Section 207 addresses organizational conflicts of interest in major defense acquisition programs.

**DATES:** *Effective Date:* December 29, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations System, OUSD(AT&L)(DPAP)(DARS), Room 3B855, 3062 Defense Pentagon, Washington, DC 20301–3060. Telephone 703–602–0328; facsimile 703–602–7887. Please cite DFARS Case 2009–D015.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD is issuing a final rule to amend the DFARS to implement section 207 of the Weapon Systems Acquisition Reform Act of 2009 (WSARA) (Pub. L. 111–23). Section 207 requires DoD to revise the DFARS to provide uniform guidance and tighten existing requirements relating to organizational conflicts of interest (OCIs) of contractors in major defense acquisition programs (MDAPs). The law sets out situations that must be addressed and allows DoD to establish such limited exceptions as are necessary to ensure that DoD has continued access to advice on systems architecture and systems engineering matters from highly qualified contractors, while also ensuring that such advice comes from sources that are objective and unbiased.

In developing regulatory language, section 207 directed DoD to consider the recommendation presented by the Panel on Contracting Integrity and further directed DoD to consider any findings and recommendations of the Administrator of the Office of Federal Procurement Policy (OFPP) and the Director of the Office of Government Ethics (OGE) pursuant to section 841(b) of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009 (Pub. L. 110–417). Section 841(b) of the NDAA for FY 2009 required review by OFPP, in consultation with OGE, of FAR coverage of OCIs. Neither OFPP nor OGE has issued recommendations to date pursuant to section 841(b), but both have worked with the FAR Acquisition Law Team, which includes representatives from DoD and the civilian agencies, to draft a proposed rule on OCIs under FAR Case 2007–018. As part of this process, OFPP, OGE, and the FAR Acquisition Law Team reviewed comments received in response to an Advance Notice of Proposed Rulemaking, published in the **Federal Register** at 73 FR 15962 on March 26, 2008, and are also considering pertinent comments that were submitted in response to this DFARS Case 2009–D015 in formulation of the proposed FAR rule.

A public meeting was held on December 8, 2009 (*see* 74 FR 57666) to provide opportunity for dialogue on the possible impact on DoD contracting of the section 207 requirements relating to OCIs.

DoD published a proposed rule in the **Federal Register** on April 22, 2010 (75 FR 20954). The comment period was initially scheduled to close on June 21, 2010. On June 15, 2010, the comment